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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/789,296

02/27/2004

Timothy A. Otterlee

R122 1020.2

7621

7590

10/31/2006

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EXAMINER

VANAMAN, FRANK BENNETT

ART UNIT

PAPER NUMBER

3618

DATE MAILED: 10/31/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/789,296

Applicant(s)

OTTERLEE ET AL.

Examiner

Frank Vanaman

Art Unit

3618

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-6 and 9-37 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-6 and 9-37 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

Status of Application

1. Applicant's amendment, filed August 23, 2006, has been entered in the application, claims 1-6 and 9-37 are pending, claims 7 and 8 have been canceled.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-6 and 9-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Johnson et al. (US 6,270,093) in view of McCue et al (US 6,513,817). Johnson teaches a cart arrangement having a utilitarian theme, including a molded plastic body portion (52) which defines a seat portion (40, 42, 44, 46) in at least one of which (42) a rider may sit facing forward (due to the space laterally of 40), a basket (4/8) fixedly attached to the body, and which may be made from a molded plastic material or a metallic material (col. 4, lines 49-50), the basket having first and second sides, as well as a bottom which is positioned forwardly of the seat, and wherein at least a substantial portion of the seat portion (e.g., 44, 46) is located above the height of the basket bottom, the seat portion including a rear wall (e.g., rearwardly facing portion of 46), left and right sides, and a front portion (note figure 5, forwardly of 40), the cart including a frame (18, 32) coupled to the molded body, and a plurality of wheels (pairs 12, 14, and 34). The reference to Johnson et al. fails to teach the molded portion as having a basket portion which receives a portion of the basket in a covering relationship. McCue et al. teach a shopping cart arrangement which includes a molded portion (23, 24, 25, 28) including both a seat portion (23, 24, 25) and a further portion extending longitudinally therefrom (28) having a pair of sides which cover at least a portion of the respective sides of a basket (12). It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the molded portion (52) of Johnson et al. with a longitudinally extending further section which extends beyond the seat portion to cover at least a portion (e.g., the lower portions) of respective sides of the basket, as suggested by the longitudinally extending portion of the molded body of McCue et al., for the purpose of presenting a visually unified appearance (i.e., visual continuity

between the basket portion and seat portion), thus making the attachment look less like a retrofit.

As regards claim 9, the reference to Johnson et al., while teaching that the basket may be made from a metal, fails to explicitly teach wire mesh. Wire mesh is very old and well known as a material for shopping cart baskets, and it would have been obvious to one of ordinary skill in the art at the time of the invention to construct the basket taught by Johnson et al. as modified by McCue et al. from a wire mesh for the purpose of using a commonly available and traditional material for the basket.

4. Claims 12-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCue et al. (US 6,513,817, filed 2/20/2002; provisional filing 2/23/2001) and Struzer (US 5,704,527). McCue et al. teach a shopping cart having a theme-shaped, molded plastic body (note at least col. 5, line 40; col. 6, lines 59-60) integrally formed so as to define a seat portion (proximate 24, 26, 27) which includes a front section (proximate 31) and rear section (proximate 25), and at least two lateral sides thereof (e.g., proximate 36), and a basket section (proximate 28) having a front (end of 12, proximate 25) and rear (proximate 31, 20), the seat having a back (24) positioned such that an occupant faces the front portion of the seat section; a non-movable basket (12) being constructed from a wire material and having a bottom portion (e.g., bottom of 12) lower than at least an upper portion of the seat back, the basket being covered on lateral sides by a basket portion (e.g., at 28) of the body (compare figures 2 and 3), and positioned such that the basket front is proximate the front of the basket accommodating portion of the frame (e.g., 28, just rearwardly of 25), a frame (38) having at least 3 wheels (34/35) coupled thereto, further including a panel (40) coupled to the body, and taught to be mounted thereto, and as such understood to be demountable therefrom, which defines a front boundary of the seating portion.

The reference to McCue et al. fails to teach the provision of one of an audio device comprising a radio receiver or internal broadcast receiver, a video display coupled to a VCR or disk player, or a video display coupled to an audio/video receiver. Struzer teaches that it is old and well known to provide an entertainment device in the

form of a radio, television, audio cassette player, CD player and/or video cassette player coupled to a wheeled transport vehicle such as a stroller. It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the entertainment device suggested by McCue as an audio device or video device, as suggested by Struzer, for the purpose of providing entertainment which (a) may be reprogrammed (e.g., through the use of different pre-recorded media) or (b) which is more familiar (i.e., a popular video) to the rider.

As regards claims 20 and 21, the reference to McCue et al. as modified by Struzer is discussed in detail above and fails to teach the specific percentage of coverage of the basket by the side walls of the basket portion of the body. When a general condition is disclosed, it is not beyond the skill of the ordinary practitioner to adjust the degree of the condition absent any teaching to the contrary, and as such, it would have been obvious to one of ordinary skill in the art at the time of the invention to adjust the coverage of the basket by the side portions of the body from between 10% and 40% for the purpose of adjusting the amount of material required to construct the body, or for adjusting the outer side appearance of the overall cart.

Response to Comments

5. Applicant's comments, filed with the amendment, have been carefully considered. As regards the reference to Lobban et al., the examiner has withdrawn those rejections based upon the Lobban et al. reference. Note the reference to Johnson et al., applied in combination with McCue et al. Applicant's comments directed to the reference of McCue et al. as applied to previous claims 12-37 are noted. The examiner agrees that McCue et al., whilst teaching an entertainment console that may include an electronic game, fail to teach the electronic devices as now specifically recited in the claims. The examiner also notes, however that the concept of coupling a wheeled transport device and an entertainment device including an audio and/or video device as now recited in the claims is well known in the art, as evidenced by the reference to Struzer, for example.

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Conclusion

6. Any inquiry specifically concerning this communication or earlier communications from the examiner should be directed to F. Vanaman whose telephone number is 571-272-6701.

Any inquiries of a general nature or relating to the status of this application may be made through either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

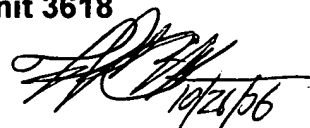
A response to this action should be mailed to:

Mail Stop _____
Commissioner for Patents
P. O. Box 1450
Alexandria, VA 22313-1450,

Or faxed to:

PTO Central Fax: 571-273-8300

F. VANAMAN
Primary Examiner
Art Unit 3618

A handwritten signature in black ink, appearing to read 'F. Vanaman', with a date '10/25/06' written below it.